IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD
(Special Original Jurisdiction)
TUESDAY, THE FIFTEENTH DAY OF JUNE
TWO THOUSAND AND FOUR
PRESENT

THE HON'BLE MR JUSTICE A.GOPAL REDDY

WRIT PETITION NO : 11958 of 1999

Between:
A.P.S.R.T.C., represented by its Managing Director,
Mushirabad, Hyderabad.

..... PETITIONER

AND

1. State Transport Appellate Tribunal,
   A.P., Hyderabad, represented by its Presiding Officer.

2. Regional Transport Authority,
   Visakhapatnam, represented by its Secretary.

3. D.V.Ch. S. Konda Raju,
   Bus Operator, Tagarapuvalasa.
   .....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an appropriate writ, order or direction, especially in the nature of a writ of certiorari, calling for the records relating to the impugned order dated 29-07-1998 made in A.P.No.116/96, State Transport Appellate Tribunal, A.P., Hyderabad setting aside the order in R.No.35363/A3/95, dated 24-08-1996 of the Regional Transport Authority, Visakhapatnam and directing the Secretary, RTA to issue a stage carriage permit for variation by exclusion of the “town service route”, Bhimili to Anandapuram from Anandapuram to Gidijala, and quash the same as being illegal, without jurisdiction and invalid.

Counsel for the Petitioner: MR.K.HARINATH

For the Respondents Nos. 1 and 2: GP FOR TRANSPORT

For the Respondent No.3: None appeared.

The Court Made the Following:

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ORDER:

In this writ petition the petitioner/Andhra Pradesh State Road Transport Corporation (for short 'A.P.S.R.T.C.') obtained a Rule from this Court asking the respondents to show cause as to why a writ in the nature of Certiorari should not be issued under Article 226 of the Constitution of India after calling upon the records in A.P.No.116 of 1996 dated 29-07-1988 from the State Transport Appellate Tribunal, A.P., Hyderabad and to quash the same.

The facts of the case, in brief, are that third respondent who is having existing town service route permit from Bhimili to Anandapuram, a length of 16 kilometers applied to the second respondent for variation of the route by extension from Anandapuram to Gidijala, making a total length of the route to 29.8 kilometers. The Regional Manager, A.P.S.R.T.C. objected for grant of extension sought by the third respondent in view of the approved scheme publishe in G.O.Ms.Nos.707, 664, 739, 734 and 735 of 1987 dated 02-11-1987 and G.O.Ms.Nos.606, 622, 624 and 630 of 1975 dated 19-05-1975 contending that the approved scheme in

G.O.Ms.No.432 of 1978 dated 09-11-1978 prohibits grant of new carriage permit of any portion of the route from Visakhapatnam to Gummalakshmipuram. The Regional Transport Authority in its meeting held on 24-08-1996 rejected the request of the third respondent holding that the extension if granted, the total length of the route would be 29.8 kilometers out of which only 8 kilometers would be within the Municipal Limits of the Bhimili and 21.8 kilometers out of the Municipal limits and it would become more a mofussil route than a town service route and also held that specific permission of the Transport Commissioner is required to classify the route on town service route under Rule 258(2)(ii) of the Motor Vehicle Rules, 1989 as the route extends for more than 8 kilometers beyond the Municipal limits of Bheemunipatnam. Aggrieved by the rejection of the application, third respondent carried the mater in revision before first respondent-State Transport Appellate Tribunal. The Revisional Authority, without adverting to the ground i.e., unless the Transport Commissioner grants specific permission for extension of route for more than eight kilometers beyond the limitation of the Regional Transport Authority cannot consider the application for grant of permit, basing on which second respondent-Regional Transport Authority rejected the grant of variation, allowed the revision by issuing stage carriage permit for variation. Assailing the correctness of the said order passed by the first respondent-State Transport Appellate Tribunal, the petitioner/A.P.S.R.T.C. preferred present writ petition.

Heard the learned Counsel appearing on behalf of the petitioner and perused the record. In spite of service of notice, third respondent did not choose to appear before this Court either in person or through any Counsel.

Learned Counsel appearing on behalf of the petitioner contended that grant of variation does amount to grant of fresh permission. Learned Counsel further contended that unless the Transport Commissioner grants permission for extension of the route beyond the Municipal Limits, the Regional Transport Authority cannot grant any permit. The Regional Transport Authority keeping in view the said ground raised before it rightly rejected the application of the third respondent for variation. The State Transport Appellate Authority without adverting to the said fact erroneously allowed the revision and directed for grant of permit for variation as prayed for by the third respondent.

The Apex Court in *A.P.S.R.T.C. Vs. State Transport Appellate Tribunal*[1] categorically held that only after obtaining prior permission, the Transport Commissioner could grant permission for variation.

It is well settled that unless Transport Commissioner granted permission, the Regional Transport Authority cannot grant permit for variation. The said ground was raised by the petitioner/A.P.S.R.T.C. before the Regional Transport Authority and accepting the same, the Regional

Transport Authority rejected the application made by the third respondent for variation.

It is not in dispute that the extended route is of 13.8 kilometers and unless prior permission from the Transport Commissioner is obtained, the same cannot be treated as town service and no variation can be granted by the State Transport Appellate Authority.

A Full Bench of this Court in *L. Raghuraman Vs. State Transport Appellate Tribunal, A.P., Hyderabad*[2] held as under:

> *" Once a scheme is published under Section 68-D of the Act, the area of which it relates is called "notified area" and the route to which it relates is called "notified route"... It is clear from the above that after the approve scheme is published the embargo under Section 68-FF of the Act operates even to the grant of variations of a permit in respect of any notified area or notified route, except in accordance with the provisions of the scheme."*

In view of the above facts and circumstances of the case, the impugned order passed by the State Transport Appellate Tribunal is not sustainable and is accordingly set aside.

The writ petition is accordingly allowed. No costs.

The Rule nisi has been made absolute as above.

Witness the Hon'ble Sri Devinder Gupta, the Chief Justice on this Tuesday, the fifteenth day of June, two thousand and four.

Assistant Registrar

-/True Copy/-

Section Officer

15-06-2004

To

1. The Presiding Officer, State Transport Appellate Tribunal, A.P., Hyderabad.

2. The Secretary, Regional Transport Authority, Visakhapatnam..

3. Two CCs to the Government Pleader for Transport, High Court of A.P., Hyderabad (O.U.T.)

4. Twp CD copies.

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[1] A.I.R. 1998 S.C. 2621

[2] 2001(5) A.L.D. 711 (FB)